

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

JASON CHIEFSTICK,

Petitioner,
vs.

PETE BLUDWORTH,

Respondent.

Cause No. CV 22-24-H-SEH

ORDER

On April 4, 2022, Jason Chiefstick (“Chiefstick”), a prisoner proceeding pro se, filed a Petition for Writ of Habeas Corpus.¹ Although he purportedly seeks habeas corpus relief in this Court, the document he filed is captioned for filing in state court.²

The Court is required to screen all actions brought by prisoners who seek relief.³ A habeas petition must be dismissed if claims asserted are legally frivolous or fail to state a basis upon which relief may be granted.⁴ Chiefstick’s claims, at a minimum, are unexhausted. The petition will be dismissed without prejudice.

¹ See Doc. 1 at 5. Under the “prison mailbox rule,” a prisoner’s document is deemed filed “at the time [it is] delivered to the prison authorities for forwarding to the court clerk.” *Houston v. Lack*, 487 U.S. 266, 276 (1988).

² See Doc. 1 at 1.

³ 28 U.S.C. § 1915(a).

⁴ 28 U.S.C. § 1915A(b)(1), (2).

I. Exhaustion

Chiefstick alleges that he was unlawfully denied parole by the Montana Board of Pardons and Parole.⁵ His claims, as asserted, challenge state law provisions.⁶ However, this Court may only entertain a habeas corpus petition if the petition demonstrates that the petitioner is in custody in violation of the Constitution or laws or treaties of the United States.⁷

On April 21, 2022, Chiefstick filed a Motion for Clarification in follow up to the April 4, 2022, Petition for Writ of Habeas Corpus, in which he asserted he had filed a state habeas petition in Toole County District Court,⁸ and that he now seeks guidance from this Court as to whether he must exhaust his state court remedies before he can proceed in federal Court.⁹

A federal court may entertain a petition for habeas relief only if the petitioner has first exhausted state court remedies.¹⁰ To meet the exhaustion requirement, a petitioner must (1) use the “remedies available,”¹¹ through the state’s established procedures for appellate review,¹² (2) describe “the federal legal

⁵ Doc. 1 at 2–4.

⁶ See Doc. 1-1 at 1–2; *see also* Doc. 1-2.

⁷ See 28 U.S.C. § 2254(a).

⁸ See Doc. 3 at 1; *see also* *Chiefstick v. Bludworth et al.*, Cause No. DV-2022-11-HC, Pet. (filed April 8, 2022).

⁹ Doc. 3 at 1-2.

¹⁰ See 28 U.S.C. §2254(b)(1)(A); *see also* *Baldwin v. Reese*, 541 U.S. 27, 29 (2004).

¹¹ § 2254(b)(1)(A)

¹² *O’Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999)

theory on which his claim is based,”¹³ and (3) describe “the operative facts . . . necessary to give application to the constitutional principle upon which the petitioner relies.”¹⁴ All three prongs of the test must be addressed in one proceeding. “Mere ‘general appeals to broad constitutional principles, such as due process, equal protection, and the right to a fair trial,’ do not establish exhaustion.”¹⁵

The Toole County District Court has not yet considered Chiefstick’s claims, nor have those claims been presented to the Montana Supreme Court.¹⁶ He has not yet exhausted his available state court remedies and this Court cannot now review the claims.¹⁷ Dismissal will be without prejudice.

II. Certificate of Appealability

“The district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant.”¹⁸ Such a certificate should issue as to those claims on which a petitioner makes a “substantial showing of the denial of a constitutional right.”¹⁹

¹³ *Davis v. Silva*, 511 F.3d 1005, 1009 (9th Cir. 2008).

¹⁴ See *Davis v. Silva*, 511 F.3d 1005, 1009 (9th Cir. 2008); see also *Gray v. Netherland*, 518 U.S. 152, 162–63 (1996).

¹⁵ *Castillo v. McFadden*, 399 F. 3d 993, 999, cert. denied, 546 U.S. 818 (2005).

¹⁶ *O’Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999).

¹⁷ See *Rose v. Lundy*, 455 U.S. 509 (1982).

¹⁸ Rule 11(a), Rules governing § 2254 Proceedings.

¹⁹ 28 U.S.C. § 2253(c)(2).

Chiefstick has not made a substantial showing that he was deprived of a federal constitutional right. A certificate of appealability will be denied.

ORDERED:

1. Chiefstick's Petition for Writ of Habeas Corpus is DISMISSED without prejudice.
2. The Clerk of Court is directed to enter judgment of dismissal.
3. A certificate of appealability is DENIED.
4. Chiefstick's Motion for Clarification²⁰ is DENIED as moot.

DATED this 27th day of April, 2022.


SAM E. HADDON
United States District Judge

²⁰ Doc. 3.